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U.S. Magistrate Judge Michelle L. Peterson

3 JUL 09 2019

4 AT SEATTLE
5 CLERK U.S. DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 BY DEPUTY

8 UNITED STATES DISTRICT COURT FOR THE
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 UNITED STATES OF AMERICA,

12 Plaintiff

NO. MJ19-314

13 COMPLAINT FOR VIOLATION

14 18 U.S.C. §§ 922(g)(1)

15 v.

16 USO GENE HALE

17 Defendant.

18 COUNT 1

19 **(Felon in Possession of a Firearm)**

20 On or about February 7, 2019, in the City of Federal Way, within the Western
21 District of Washington, USO GENE HALE, knowing that he had been convicted of the
22 following crimes punishable by imprisonment for a term exceeding one year, to wit:

- 23 a. *Unlawful Possession of a Firearm in the Second Degree*, 14-1-00186-0, in
24 Clark County Superior Court, on or about April 6, 2015; and

b. *Escape in the Second Degree*, 06-1-10074-0, in King County Superior Court, on or about May 18, 2007;

did knowingly possess, in and affecting interstate and foreign commerce, the following firearms, to wit: an Ejercito Argentino .45 caliber handgun and a Ruger .22 caliber handgun, that had been shipped and transported in interstate and foreign commerce.

All in violation of Title 18, United States Code, Section 922(g)(1).

This Complaint is based upon the following information:

AFFIANT'S BACKGROUND

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), and have been employed with the FBI since September 17, 2017. I am currently assigned to the violent crime/organized crime squad in the Seattle, Washington office. As an FBI Special Agent, I have investigated a variety of narcotics and firearm related crimes, including cases involving possession and distribution of narcotics, illegal trafficking of firearms, and unlawful possession of firearms and ammunition.

2. During my FBI career, I have been involved in narcotics and felon in possession of firearms and ammunition arrests and search warrants in drug trafficking, organized crime, and trafficking of stolen property cases. I have authored affidavits in support of federal warrant applications, participated in executing state and federal warrants, and have interviewed drug and firearms traffickers and informants with knowledge of drug and firearms trafficking. I have also served as a case agent on prior federal criminal investigations into Drug Trafficking Organizations (“DTOs”) and other criminal activity. I have participated in the debriefing of defendants, witnesses, and informants, during which time I have discussed with them their criminal activity, to include drug trafficking, firearms possession, and avoiding law enforcement detection, among other crimes and activities. I have also discussed with and learned from other law enforcement investigators regarding these matters as well.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. I have also read reports written by law enforcement officers regarding the incident in this case. This affidavit is intended to show merely that there is sufficient probable cause for the above charge and does not set forth all of my knowledge about this matter.

SUMMARY OF PROBABLE CAUSE

4. On February 6, 2019, Officer Travis Stevens of the Federal Way Police Department was notified by the Auburn Police Department that USO HALE was believed to have eluded a police officer in Auburn, Washington that night and was believed to be driving a silver 2001 Volkswagen Beetle bearing Washington license plate AVU6791. Officer Stevens conducted a Washington State Crime Information Center (WACIC) and National Crime Information Center (NCIC) check of HALE and discovered that HALE had two listed felony warrants: (1) Department of Corrections Escape Community Custody No Bail and (2) Violation of the Uniform Controlled Substance Act (VUCSA) from King County Superior Court. HALE also had a caution in WACIC/NCIC that stated he was assaultive and resistive to law enforcement.

5. On February 7, 2019, Detective Justin Antholt, Officer Jason Ellis, and Officer Stevens of Federal Way Police Department were conducting an extra patrol at 31455 13th Ave SW, Federal Way, King, Washington 98023 (the “Residence”). At approximately 3:31 p.m., Detective Antholt observed a silver 2001 Volkswagen Beetle (the “Vehicle”) parked in the driveway of the Residence and HALE seated in the front passenger seat of the Vehicle. Multiple Federal Way Police Department officers began conducting surveillance of the Vehicle. At approximately 8:31 p.m., the Vehicle left the Residence and eventually parked at a nearby gas station in Federal Way. At the gas station, Detective Antholt and Officer Austin Rogers positively identified HALE in the driver’s seat of the Vehicle.

1 6. A high risk stop was initiated on the Vehicle by K9 Officer Kyle Buchanan
 2 in his fully marked patrol vehicle. HALE attempted to drive away from K9 Officer
 3 Buchanan and multiple other Federal Way Officers who were on foot. As HALE
 4 attempted to drive northbound through the parking lot of the gas station, the Vehicle was
 5 pinned from the front and back by Federal Way Officers. HALE was told multiple times
 6 he was under arrest. Officers directed HALE to exit the Vehicle multiple times, but he
 7 refused. HALE was observed moving and reaching frantically into spaces in the Vehicle
 8 that were not visible to the Officers. HALE looked at Officer Stevens and said "Move
 9 your fucking car!" after attempting to reverse the Vehicle. Officer Stevens observed a
 10 Caucasian female in the front passenger seat of the Vehicle who Officer Stevens knew as
 11 A.R. Officer Stevens commanded A.R. to get out of the Vehicle, but A.R. refused.

12 7. The back windshield of the Vehicle was a plastic film. Detective Antholt,
 13 with assistance from other officers who provided cover, cut a hole in the plastic film and
 14 applied OC spray to the cabin of the Vehicle. After a short time, A.R. exited the Vehicle
 15 followed by HALE. Once out of the Vehicle, HALE grabbed A.R. and positioned her
 16 between himself and officers. HALE began to back away from the officers with A.R.
 17 still positioned between himself and the officers. Officer Stevens told HALE to let go of
 18 A.R. HALE turned A.R. towards Officer Stevens to position her between himself and
 19 Officer Stevens. K9 Officer Buchanan deployed his K9, which contacted HALE. HALE
 20 released A.R. at this time. HALE continued to resist with officers, but was eventually
 21 taken into custody.

22 8. Upon securing HALE in custody, Officer Stevens looked inside the Vehicle
 23 and in plain view observed two firearms in the passenger side floorboard. Specifically,
 24 Officer Stevens saw a silver firearm barrel and a raised front sight post. Also in the
 25 passenger side floorboard, Officer Stevens saw a pistol grip with a black handguard and
 26 silver frame. In the backseat of the Vehicle and in plain view, Officer Stevens observed
 27 tin foil with a black, burnt residue on it that Officer Stevens believed, based on training
 28 and experience, to be drug paraphernalia. Officer Stevens sealed the Vehicle with

1 evidence tape pending an application for a search warrant. The Vehicle was towed to the
 2 Federal Way Police Department and secured in the police department's evidence lot.
 3 HALE was transported to Highline Hospital for medical treatment before being booked
 4 into the SCORE jail on his confirmed warrants.

5 9. On February 8, 2019, Officer Stevens applied for and was granted a search
 6 warrant for the Vehicle by the Honorable David A. Larson, King County Municipal
 7 Court in Federal Way. Officer Stevens served the search warrant for and conducted the
 8 search of the Vehicle. In the passenger side floorboard, Officer Stevens located two
 9 loaded firearms. The first firearm was an Ejercito Argentino .45 caliber semi-automatic
 10 pistol (serial number: 28241) with a loaded magazine inserted and a round in the
 11 chamber. The Ejercito Argentino pistol was inside a holster, which contained a second
 12 magazine loaded with additional .45 caliber bullets. The second firearm was a Ruger
 13 22/45 .22 caliber semi-automatic pistol (serial number: 220-97689) with a magazine
 14 inserted and no round in the chamber. The magazine contained one .22 caliber bullet. A
 15 WACIC/NCIC check of the Ruger 22/45 pistol (serial number: 220-97689) showed the
 16 firearm was reported as stolen by the Federal Way Police Department. The Ruger 22/45
 17 pistol was confirmed to be stolen through Federal Way Records.

18 10. In the glovebox, Officer Stevens located a small plastic baggy containing a
 19 brown substance that Officer Stevens believed, based on training and experience, to be
 20 heroin. Officer Stevens located other items of drug paraphernalia within the Vehicle.
 21 The suspected heroin, without packaging, weighed 3.86 grams. Officer Stevens used a
 22 small amount of the suspected heroin in a NIK test kit A, in accordance with Washington
 23 State Patrol Crime Lab Protocol. The NIK test kit A had a presumptive positive result for
 24 opium or codeine. Officer Stevens then used a small amount of the suspected heroin in a
 25 NIK test kit B, in accordance with Washington State Patrol Crime Lab Protocol. The
 26 NIK test kit B had a presumptive positive result for codeine. Officer Stevens lastly used
 27 a small amount of the suspected heroin in a NIK test kit K, in accordance with
 28

1 Washington State Patrol Crime Lab protocol. The NIK test kit K had a presumptive
2 positive result for heroin.

3 11. On February 8, 2019, Detectives Jon Postawa and Rob Jones of Auburn
4 Police Department conducted an interview of HALE in the SCORE jail located in Des
5 Moines, Washington. The interview of HALE was recorded by audio means after
6 consent was obtained from HALE. Prior to being asked questions about any criminal
7 activity, HALE was read his *Miranda* rights by Detective Postawa. HALE stated he
8 understood his rights, that he agreed to waive his rights, and that his waiver of rights was
9 voluntary. During the interview, HALE admitted to possessing the firearms located in
10 the Vehicle. HALE described the firearms as a .45 caliber black in color and a .22 caliber
11 45/22 black and grey in color. HALE said both firearms were heavy and therefore he
12 believed they were loaded. HALE acknowledged he knew he was prohibited from
13 possessing a firearm based on his prior felony convictions.

14 12. Special Agent Claudia Grigore of the Bureau of Alcohol, Tobacco,
15 Firearms and Explosives (ATF), a court-recognized “interstate nexus” expert who has
16 received specialized training in identifying the manufacturers and/or importers of
17 firearms and ammunition, has reviewed the make, model, caliber, and serial numbers of
18 the above firearms located by Officer Stevens in the Vehicle driven by HALE. She has
19 also reviewed photographs of the firearms. Based on her review, Special Agent Grigore
20 has opined that the firearms meet the definition of “firearm” under federal law and that
21 each of the firearms was manufactured outside the State of Washington. Therefore, the
22 above firearms necessarily had previously traveled in interstate or foreign commerce
23 before being recovered in King County, Washington.

24 13. Finally, I have reviewed the court records showing that USO G. HALE has
25 been convicted for the following crimes punishable by imprisonment for a term
26 exceeding one year:

27
28

- a. *Unlawful Possession of a Firearm in the Second Degree*, 14-1-00186-0, in Clark County Superior Court, on or about April 6, 2015; and
 - b. *Escape in the Second Degree*, 06-1-10074-0, in King County Superior Court, on or about May 18, 2007;

In the above cases, HALE was sentenced to a term of imprisonment exceeding one year. At the time of his arrest, HALE was also on supervision for a prior conviction.

CONCLUSION

14. Based on the foregoing, I respectfully submit that there is probable cause to believe that USO G. HALE has committed the offense of: Felon in Possession of a Firearm, in violation of Title 18, United States Code, Section 922(g)(1).

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

SHAWNA McCANN, Special Agent
Federal Bureau of Investigation

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the Defendant committed the offenses set forth in the Complaint.

DATED this 1st day of July, 2019

The Honorable Michelle L. Peterson
United States Magistrate Judge